

# ***ESTABLISHING A NATIONAL DNA DATA BANK***



## ***CONSULTATION DOCUMENT***

***Solicitor General Canada***

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### INTRODUCTION

Since its forensic introduction in Canada in 1988-89, DNA analysis has been instrumental in securing convictions in hundreds of violent crimes, from homicide to assault. It has also helped to eliminate suspects and has led to the exoneration and release of previously convicted individuals. Forensic DNA analysis is conducted throughout the world including the United States, Great Britain, France, Germany, Australia and New Zealand.

This is a consultation paper about how a national DNA data bank would function. It is a follow-up to an earlier consultation paper entitled "Obtaining and Banking DNA Forensic Evidence" (Department of Justice, 1994). That paper raised questions about a number of DNA issues including obtaining DNA evidence during the course of a criminal investigation. Following this, the federal government proceeded with the enactment in July 1995 of C-104, DNA warrant legislation.

The paper also dealt with the issue of regulating DNA laboratory work, which would ensure that the courts have the highest quality DNA results. Work is currently underway with the Canadian Society of Forensic Science and the Standards Council of Canada to set up a system of accreditation of forensic DNA laboratories.

While the earlier paper received a great deal of support for the establishment of a DNA data bank, it also highlighted the fact that this is a very complex undertaking requiring more extensive consideration.

This paper looks at these areas, and **invites your responses by March 31, 1996**. This will assist the federal government in developing its policy in regard to banking DNA information, which will be used only in the investigation and prosecution of designated criminal offences.

## **BACKGROUND**

### ***What is DNA?***

DNA is the acronym for a molecule called Deoxyribonucleic Acid. It has been described as the basic building block of life, the blueprint of the body. Human bodies, as well as those of animals and vegetables, consist of trillions of cells. Each human cell contains a nucleus, within which are 46 chromosomes, divided into 23 pairs, inherited maternally and paternally. The DNA molecule is arranged in these DNA analysis, in the forensic context, is a generic phrase which encompasses various molecular biological techniques that can be used for identification purposes by direct analysis of specific sites on the DNA molecule.

DNA analysis is an effective comparative identification tool. The most prominent application has been in identifying perpetrators of violent crime by comparison of biological samples from suspects against biological specimens that perpetrators have directly or indirectly left at or taken from crime scenes (e.g. semen, saliva, hair, or blood). Significant cases have also occurred in which DNA analysis has exonerated suspects. Very little genetic material is needed for DNA analysis and samples of bodily substances can be obtained relatively unintrusively by trained personnel. Certain kinds of bodily substances -- hair plucked from any part of the body, epithelial cells, or skin cells obtained by swabbing the lips, tongue and inside cheeks of the mouth or on a few drops of blood obtained by a simple finger lancet -- can be seized for forensic DNA analysis.

### ***How can DNA assist the police and the courts?***

DNA can focus investigations, and will likely shorten trials and lead to guilty pleas. It could also deter some offenders from committing serious offences. The increased use of forensic DNA evidence will lead to long-term savings for the criminal justice system.

Through storing DNA data in computer data banks, DNA analysis can be used to solve crimes without suspects. Forensic scientists can compare DNA profiles of biological evidence samples with a data bank to assist the police in detecting suspects.

A data bank would also enable unsolved earlier offences where DNA evidence had been found but not linked with the offender, to be cleared up if DNA samples taken from a suspect in connection with a later offence matched the evidence found at the scene of the earlier crime.

A national DNA data bank would also help police identify serial offenders both within and across jurisdictions.

***How does a DNA data bank work?***

The idea of banking information for future criminal investigations is not new - it has been done with fingerprinting under the *Identification of Criminals Act*.

A typical DNA data bank contains several indices:

A "crime scene" index would relate to the DNA evidence obtained from the scene of an unsolved crime (e.g. semen, hair, blood, saliva). It would then be possible to link unsolved crimes and determine whether a person had been involved in any unsolved crimes that are indexed.

A "convicted offender" index would include the DNA identification profiles derived from bodily substances taken from persons convicted of specified offences, whether or not DNA evidence was relevant to the particular offence for which that person was convicted. Subsequently, should a crime-scene specimen DNA profile match a profile in the crime scene index, the police could then apply for a warrant to obtain a "known standard" from that person for direct comparison and use in any judicial proceedings.

A potential index is a "missing person's" index, which would contain genetic profiles of unidentified bodies or body parts. It could be searched against profiles of parents, siblings or relatives in the hope of making an identification.

***Are there special privacy concerns associated with a DNA data bank?***

DNA analysis technology, because it reveals aspects of a person's genetic code, creates privacy concerns not relevant in other forms of forensic identification, such as fingerprinting. The Privacy Commissioner of Canada discussed the question in his 1992 report, *Genetic Testing and Privacy*:

*There may be proper uses for personal genetic databases where crimes of serious violence are involved...If genetic databases are to be found acceptable, they should be used only for identification. The information contained in a genetic database and any genetic samples related to the crime should not be used to try to identify other characteristics that may have a genetic link, such as personality.*

*Furthermore, not every form of criminal activity would warrant including a criminal's DNA profile in a genetic database. Databases should be considered only for persons who have been convicted of crimes involving serious violence.*

Privacy concerns in this area generally are less about using the technology for identification purposes in crime detection, than about using this information for more than crime detection or using the technology for purposes other than identification.

***Phase II of the DNA Initiative: A National DNA Data Bank***

Work on legislation to establish a DNA data bank is on-going: both the Solicitor General and the Minister of Justice have indicated that they would like to see legislation brought forward establishing a DNA data bank.

The data bank will likely consist of at least two indices: one for DNA data from unsolved crimes, the other for DNA data from convicted offenders.

The data bank would be used for comparative purposes, and if there is a match (ex: crime scene DNA matches with data on the convicted offender index) that information would form the basis for a warrant, and the results of that analysis and the crime scene DNA would be the evidence presented in court.

There are a number of issues on how the data bank would function.

- what should be included in the data bank?
- when should samples be collected from newly convicted offenders and who should have responsibility?
- should biological samples also be retained?
- how should the data bank be funded?

**The purpose of this paper is to canvass views on these questions, and any other questions that may arise.**

## ISSUES FOR CONSULTATION

### **What should be included in the Data Bank?**

This raises the issue of the type of offences that would trigger the authority for a DNA sample to be obtained upon conviction. Two considerations should be kept in mind.

First, the types of crimes most relevant to DNA analysis are those where bodily substances tend to be left at the crime scene and where the identification of the perpetrator is in question. Secondly, the banking of DNA evidence is based on the likelihood that certain kinds of offenders tend to re-offend.

C-104, the recently enacted DNA warrant legislation, contains a list of designated offences which are subject to the warrant scheme. The list consists, for the most part, of serious offences involving personal injury or other offences where it is likely that the perpetrator will leave bodily substances at the scene of the offence or on something associated with the commission of the offence. (See Annex A: List of designated offences).

At a minimum, DNA data obtained through the execution of a DNA warrant could be included in the data bank (unless charges have been dropped or the person acquitted, in which case the data is destroyed).

The question then becomes how far the data bank should be expanded to include DNA data for all those who are convicted of designated offences, whether or not DNA data was obtained and used during the course of the investigation or prosecution.

### **Questions for consultation:**

**What type of offence should result in bodily samples being taken for DNA analysis? Should the list of designated offences be the same as for the DNA warrant legislation?**

***When should samples be collected from convicted offenders and who should collect them?***

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Possible options are:

- a) collection at the time of conviction or sentencing
  - ⇒ local police would collect samples
  - ⇒ it would ensure that all offenders convicted of schedule offences, including those who do not receive a sentence of incarceration, would be tested
- b) collection upon arrival at provincial, territorial or federal correctional institution where the person is to serve their sentence, for a person who is to be in custody
  - ⇒ in this case, either the federal, provincial or territorial correctional authorities could undertake collection [or the local police force or RCMP]
- c) collection just prior to release from custody
  - ⇒ federal, or provincial/territorial, correctional authorities [or local police or the RCMP] could do collection
  - ⇒ under this option, however, the samples would not be available until later in the process; it may be a number of years before some unsolved crimes would be addressed.

Options (b) and (c) leave open the question of how to deal with those convicted of a scheduled offence who are not incarcerated. These cases could presumably be dealt with by local police.

It is important to note the numbers involved in DNA sample collection. Estimates from prison population statistics indicate that 7000 new adult schedule offenders will likely go into the provincial system per year, while 3500 new adult schedule offenders will likely enter the federal system.

It should also be noted that legislation will likely provide that either hair, blood or saliva samples can be collected for analysis for the data bank. As in the DNA warrant legislation, there will be a requirement that the person responsible for taking the sample have training or experience.



Obtaining these samples from a consenting individual is a relatively simple and straightforward procedure which can easily be carried out by trained police officers. Obtaining samples from someone resisting the process is much more difficult. Involvement of health care professionals may be advisable in certain cases, such as where blood is to be collected from a resisting offender.

This in turn raises the issue of whether a qualified health care worker would be willing to take a sample from a resisting offender. This could be ethically problematic on two grounds: first, the sampling procedure would not be for treatment purposes, and second, would not be carried out with consent where persons chose to resist.

Furthermore, the protection of health care professionals from legal liability also becomes an issue.

### **Questions for consultation**

- 1) Who should be responsible for collecting samples? The local police, or federal or provincial/territorial corrections officials?**
- 2) At what stage in the processing of convicted offenders should this occur?**
- 3) What, if any, involvement should health care professionals have in the process?**

### ***Should biological samples also be retained?***

The data bank will consist of information obtained from analysis of DNA extracted from biological samples. The issue here is what should happen to the original biological samples and extracted DNA once the DNA data is entered in the data bank.

***Arguments against retention of biological samples***

From a privacy and information security standpoint, it has been argued that these samples must be destroyed once the information has been entered and verified. This is seen as particularly important as the biological samples can be tested to reveal extremely personal information contained in a person's genetic code. It can also reveal personal genetic information about a person's family members. Destruction of the samples was recommended by the Privacy Commissioner in the 1993 Report on Genetic Testing.

Prohibiting sample retention would also eliminate a possible challenge to the legislation. A further advantage is that sample destruction would greatly reduce storage problems and costs.

***Arguments in favour of retaining biological samples***

On the other hand, sample retention could be useful in the future. For example, technological improvements, such as improved analytical instrumentation, could have an effect on existing data, possibly rendering it obsolete. Were such a change to occur, samples which were retained could be reanalysed, and the database would be readily converted to accommodate the new technology.

If sample retention were not to be authorized, a number of problems could result: i) the cost and difficulty of re-sampling and conversion would lead to retaining an existing inferior, more expensive technology; ii) the conversion would occur but data from previous years would be lost, thereby reducing the effectiveness of the data bank; iii) two methods of analysis would run in parallel for a few years while the old method is gradually phased out; and iv) all offenders could be re-sampled, an expensive and difficult process.

One alternative approach would allow the benefits of sample retention to be realized while minimizing privacy and security concerns. This would involve having the RCMP retain only the data while an independent agency would retain and securely store the original samples and the DNA extracted from them. Samples would be identified only with bar codes, and the agency would not be able to link samples with names or other identifiers. The RCMP would only come into possession again should re-analysis be required. The added privacy protection of this alternative must be balanced against the disadvantages of increased cost and administrative complexity.

**Questions for consultation:**

- 1) Do you think that biological samples should be retained for use in the event of technological change? Or do you think that only the DNA data should be retained, in order to reduce the possibility of abuse inherent in retaining biological samples?**
- 2) Would you support the use of an independent agency to store and protect access to the biological samples and DNA?**

**How Should DNA Casework and Data Banking Be Funded?**

DNA casework and databanking will result in net cost-savings to the criminal justice system through a reduction in the length of police investigations and trials (due to an expected increase in guilty pleas) and through an anticipated reduction in repeat offending. While these aspects are often difficult to quantify, they are nonetheless very significant in any discussion of costs associated with forensic DNA evidence.

It will be important to ensure that forensic DNA casework and data banking is used efficiently and effectively:

- ⇒ DNA should be used in all cases where it is needed, not just in the most extreme and serious cases;
- ⇒ financial obligations should be shared in a way that is fair and equitable; and
- ⇒ forensic DNA analysis, both as an investigative aid and as evidence, should be recognized as having great potential to serve the common interest of the federal and provincial/territorial governments, the police and the public, in a more integrated and effective criminal justice system in Canada.

Forensic DNA services are funded in various ways in other countries. In the Canadian context, the two main options would appear to be federal-provincial/territorial cost-sharing, or a direct fee for service to be paid by users of the forensic DNA services.

The objective of this part of the consultation process is to consider these options and arrive at the best approach for Canada.

***Outline of Costs of Forensic DNA Evidence***

Realization of the benefits of DNA will require expenditure of a significant level of funds in the course of a criminal investigation (i.e., casework) and in the establishment and operation of a national DNA data bank. These costs include salaries, training, lab supplies, and capital costs for new equipment and facilities. It should be noted that the mix of possible options presented in this consultation document adds to the difficulty in projecting future expense and revenue costs.

### ***Costs of DNA Casework***

Currently, DNA casework carried out in RCMP labs is funded as a National Police Service. According to figures supplied by the RCMP, the cost of basic personnel and O&M for casework in the biology section of RCMP labs amounts to \$5.7 million annually. (Based on annual costs of 63 staff at an average salary of \$68,400, lab supplies of \$800,000, and a projected increase in volume due to the new warrant legislation of \$600,000.).

The RCMP estimate *all* costs of biology section casework to amount to \$8.7 million annually. The almost \$3 million increase over basic casework costs is due to the inclusion of total personnel costs (benefits, etc.), \$700,000 annually for new equipment (over 5 years), and a factor of 1.1 for miscellaneous overhead.

These casework costs are based on total DNA casework costs, rather than on increased lab costs due to legislative change. It is estimated that on average, most cases cost approximately \$4,000.00 each.

Ontario and Quebec use provincially funded labs for the majority of their DNA casework.

### ***Cost of a National DNA Data Bank***

The projected costs for a national DNA data bank containing DNA data taken at the time of conviction for a serious criminal offence would consist of start up costs of approximately \$1,175,000, with operational costs of approximately \$2,200,000/year. The cost of the biology portion of the planned new central forensic laboratory, which would house the data bank, is approximately \$5.8 million.

## **Experience in Other Jurisdictions**

### ***System in Britain***

Under the recently passed Criminal Justice and Public Order Bill, Britain has established the largest and most extensive forensic DNA system in the world. It is expected to process over 135,000 samples a year. This data bank, which has been operating since April 1995, has already provided criminal intelligence information in over 100 cases. Under the fee for service scheme in place for all forensic services in Britain, individual police forces are responsible for paying for DNA casework and use of the data bank.

The Forensic Science Service, which is a Executive Operating Agency working on the basis of a 100% cost recovery fee for service, charges police approximately \$450 (Canadian) per item. At seven items per case this would amount to \$3,150 per case. (It should also be noted that the Forensic Science Service is a multidisciplinary laboratory which uses the same charge per item for all cases and that some less expensive examination types somewhat subsidize more expensive examinations such as forensic DNA analysis.)

Individual police forces also pay to have samples analyzed for inclusion in the data bank; this analysis costs approximately \$100 (Canadian) per sample.

### ***System In the United States***

Although most American states now have DNA data banking laws, in many cases the systems have not been put into place. In many of these states, the legislatures have not yet appropriated funds sufficient to implement the legislation, and they do not have the resources to collect samples or lack DNA laboratories or trained personnel to analyze them if they have been collected. This is particularly a problem in relation to analysis of cases without suspects. Louisiana repealed its statute in 1993 because of its legislature's failure to appropriate necessary funds.

This situation may be alleviated with implementation of the *DNA Identification Act*, which was passed as part of the federal Crime Bill of 1994. It makes data banks in individual states eligible for federal grants in exchange for adherence to certain quality assurance and proficiency-testing standards.

## **Funding Options**

### ***Fee for Service Option***

In its simplest terms, a fee for service system is one in which cost recovery takes place through a fee paid by those using the service provided. As noted above, such a system exists in Britain for forensic DNA services; it applies to casework as well as their newly-established DNA databank.

In considering a fee for service for forensic DNA work in Canada, user fees could be charged for i) casework, ii) submitting samples to the data bank, iii) searching the data bank, or iv) for both casework and data bank services.

**One option to be considered would be for individual police forces to pay a fee for service for the cost of DNA case work, with the RCMP providing the funding for the national DNA data bank.**

Under this model, the RCMP, as the national police force, would be responsible for establishing and operating a national DNA data bank, and would assume the responsibility for its funding. (It should be noted that the RCMP has not received increased funding to absorb the costs of increased DNA case work resulting from passage of C-104, the DNA warrant legislation). The RCMP would also assume responsibility for operational support (research, training, etc) for casework carried out in the RCMP labs. In this option, actual casework costs would be shared by all those using the case work services through a direct fee for service..

A fee for service system for DNA casework could be administered through direct billing, on a case by case basis, of individual police departments by the RCMP. A variation would be for the RCMP to bill individual police departments on an annual basis.

As noted above, most cases consist of six or seven items, and cost approximately \$4,000 per case. A phased-in approach could be considered, which would see police forces gradually assuming full casework costs over a period of from 3 to 5 years.

The following table, based on the RCMP laboratory information management system, gives an indication of the likely impact of DNA casework charges on individual police departments of various sizes. It shows the number of cases submitted to RCMP labs by selected police departments in 1995 (projected for a 12 month period), and multiplies them by the average case cost of \$4,000, and then looks at the resulting lab costs as a percentage of the police department's total budget.

### **IMPACT OF DNA CASEWORK CHARGES ON**

**POLICE BUDGETS (1995)**

Agency	Local Population	No. of Cases Submitted	Laboratory Charge	Total Agency Budget	Charge as a % of Budget
Calgary P.S	732,000	106	\$424,000	\$115 million	0.37%
Winnipeg P.S	617,000	126	\$504,000	\$89 million	0.57%
Ottawa, P.F	343,000	15	\$60,000	\$60 million	0.10%
Regina P.S	343,000	24	\$96,000	\$30 million	0.32%
Saint John P.	73,000	5	\$20,000	\$14 million	0.14%
Lethbridge P.	62,500	10	\$40,000	\$10 million	0.40%
Amhurst P.	9,700	3	\$12,000	\$1,660,000	0.72%
Nelson P.	9,500	1	\$4,000	\$1,550,000	0.26%
Rivers (Man.) P.D.	1,100	1	\$4,000	\$95,000	4.21%
Surrey Mun. RCMP	271,000	25	\$100,000	\$21 million	0.48%
Nanaimo Mun. RCMP	66,400	9	\$36,000	\$6,6 million	0.55%
Red Deer Mun. RCMP	60,500	5	\$20,000	\$5,7 million	0.35%
Riverview NB Mun. RCMP	16,600	1	\$4,000	\$1,3 million	0.31%
Thompson Mun. RCMP	15,300	7	\$28,000	\$2,0 million	1.40%
Yorkton Mun. RCMP	15,000	2	\$8,000	\$1,6 million	0.50%
Taber Mun. RCMP	6,800	1	\$4,000	\$750,000	0.53%
Shediac RCMP (r)	4,400	1	\$4,000	\$753,000	0.53%
Tisdale RCMP		0	0	\$231,000	0

**Question for consultation**

**What are your views on a fee for service system with individual police forces paying for DNA casework and the RCMP funding a national DNA data bank?**

***Federal-Provincial/Territorial Cost-sharing Option***

Under this option the federal and provincial/territorial governments would negotiate a mutually acceptable arrangement that would see the cost of forensic DNA evidence shared between them.

The cost base and the formula for apportioning costs to individual provinces need to be considered with respect to cost-sharing arrangements.

**One option for discussion would see the RCMP funding the national DNA data bank and the provinces cost-sharing casework.**

The RCMP, as the national police force, would establish and operate the national DNA data bank, and assume all costs, while the provinces would be responsible for the cost of casework carried out by the RCMP labs.

Under this option the provinces would be responsible for basic casework costs, while the RCMP would continue to fund operational support (research, training, etc.) for casework carried out by the RCMP labs, as well as fund the data bank.

Costs would be apportioned to provinces according to a mutually acceptable formula. Options include historical lab usage patterns, population base, or a system whereby provinces are billed annually for the actual number of cases they send to the labs.

Consideration could be given to a phased-in approach, where, for example, provinces/territories would have a period of from 3 to 5 years to assume their full share of costs.



**Questions for consultation:**

- 1) What are your views on a cost-sharing approach which would see the provinces/territories paying for their DNA casework costs and the RCMP financing the establishment and operation of a national DNA data bank?**
- 2) How should such a cost-sharing system be administered: through an assessment of actual use at year end, or at the beginning of the year based on historical usage data?**

## ANNEX A

### **HIGHLIGHTS OF BILL C-104: DNA WARRANT LEGISLATION**

This legislation amends the *Criminal Code* and the *Young Offenders Act* to allow a judge to issue a warrant authorizing a peace officer, or another person acting under the direction of a peace officer, to obtain samples of bodily substances by means of special "investigative procedures" for forensic DNA analysis from a person who is reasonably believed to have been a party to certain "designated" *Criminal Code* offences.

- "designated offences" include sexual offences and crimes of violence (see list below).
- the three "investigative procedures" that are authorized by this legislation for the collection of bodily substances are:
  - 1) the plucking of individual hairs from the person;
  - 2) the taking of a buccal swab; and
  - 3) the taking of a small quantity of blood by pricking the skin surface with a sterile lancet.

#### **Execution of the warrant**

The legislation contains provisions requiring the peace officer executing the warrant to ensure that the privacy of the person is respected in a manner which is reasonable in the circumstances and permits the judge to include terms and conditions in the warrant which the judge considers advisable to ensure that the seizure of the bodily substances is carried out in a reasonable fashion.

#### **Limitation on the use of the bodily substances and the results of the DNA analysis**

The legislation also contains provisions regulating the use that can be made of the bodily substances and the results of the DNA analysis. The bodily substances and the results of the DNA analysis can only be used in the course of the investigation of "designated offences" or in judicial proceedings for such offences. The new legislation provides a criminal offence for persons who contravene this limitation.

**Statutory requirement for the destruction of bodily substances seized and the results of the analysis**

Where, after forensic DNA analysis, the involvement of the suspect in the commission of the offence has been disproved, any bodily substances seized under the authority of a warrant that remain and the results of the analysis shall be destroyed to protect the privacy of that person unless a judge orders otherwise. Similarly, if the information is withdrawn, or the prosecution is stayed and not recommenced, or the accused is finally acquitted, any bodily substances seized under the authority of a warrant that remain and any associated information resulting from the analysis shall be destroyed.

**Young offenders**

Young offenders are treated for the most part, as adults. The police have access to warrants with respect to the same types of offences and all persons to be subject to such procedures benefit from procedural safeguards at the time the warrant is to be executed. There are, nevertheless, some special protection afforded young persons such as the right to have the samples taken in the presence of counsel, or other appropriate adult and the existing rules in the *Young Offenders Act* with regard to prohibitions on publication and access to records would be extended.

**Use of the new warrant in the investigation of offences committed prior to the coming into force of the enactment.**

The new warrant can be used in the investigation of offences committed prior to the coming into force of the enactment.

## LIST OF DESIGNATED OFFENCES

DNA warrants can only be issued for the investigation of the following designated Criminal Code offences:

- piratical acts (s.75);
- hijacking (s.76);
- endangering safety of aircraft or airport (s.77);
- seizing control of a ship or fixed platform (s.78.1);
- placing explosive with intent to destroy or damage property (para.81 (2) (a));
- sexual interference (s.151);
- invitation to sexual touching (s.152);
- sexual exploitation (s.153);
- incest (s.231);
- manslaughter (s.236);
- causing bodily harm with intent (s.244);
- failure to stop at scene of accident (s.252);
- assault (s.266);
- assault causing bodily harm or with a weapon (s.267);
- aggravated assault (s.268);
- unlawfully causing bodily harm (s.269);
- torture (s. 269.1);
- assaulting a peace officer (s.270 (1) (a));
- sexual assault (s.271);
- sexual assault with a weapon, threats to a third party or causing bodily harm (s.272);
- aggravated sexual assault (s.273);
- kidnapping (s.279);
- hostage taking (s.279.1);
- robbery (s.344);
- breaking and entering with intent to commit an offence (s.348(1));
- mischief that causes actual danger to life (s.430 (2));
- arson - disregard for human life (s.433);
- arson - won property (s.434.1);
- an offence under any of the following provisions of the Criminal Code, as they read immediately before July 1, 1990:
  - (a) section 433 (arson); and
  - (b) section 434 (setting fire to other substance); and

- an offence under the following provision of the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, as they read immediately before January 1, 1988:
  - (a) section 153(a) (a) (sexual intercourse with stepdaughter, etc.).
- an offence under any of the following provisions of the Criminal Code, chapter C-34 of the Revised Statutes of Canada 1970, as they read immediately before January 4, 1983;
  - (a) section 144 (rape);
  - (b) section 146 (sexual intercourse with female under fourteen and between fourteen and sixteen); and
  - (c) section 148 (sexual intercourse with feeble-minded, etc.).
- an attempt to commit a designated offence.